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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/331,631

06/21/1999

JOHN MICHAEL MANNERS

CULLN23.001A

1902

20995

7590

02/25/2005

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

ROBINSON, HOPE A

ART UNIT

PAPER NUMBER

1653

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/331,631	MANNERS ET AL.	
	Examiner	Art Unit	
	Hope A. Robinson	1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,11,12,14,15,17-21,30,31,34,36,37,39,40 and 43-54 is/are pending in the application.
- 4a) Of the above claim(s) 14,15,36,37,39 and 40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 3,19,30,31,43,47,49,52 and 54 is/are allowed.
- 6) ☐ Claim(s) 1,2,11,12,17,18,20,21,34,46,48,50,51 and 53 is/are rejected.
- 7) ☐ Claim(s) 44 and 45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's response to the Office Action mailed November 19, 2003 on November 30, 2004, is acknowledged.

Claim Disposition

2. Claims 4-10, 13, 16, 22-29, 32-33, 35, 38 and 41-42 have been canceled. Claim 1 has been amended. Claims 1-3, 11-12, 14-15, 17-21, 30-31, 34, 36-37, 39-40, 43-54 are pending. Claims 1-3, 11-12, 17-21, 30-31, 34 and 43-54 are under examination. Note that claims 12 and 34 have been rejoined as the claims now have the same scope as the claims originally examined. It is suggested that applicant cancel all non-elected claims.

3. The following grounds of objection/rejection are or remain applicable:

Claim Objection

4. Claims 12 and 44-45 are objected to because of the following informalities:

For clarity and precision of claim language, it is suggested that claim 12 is amended to recite "the protein fragment", in lieu of "a protein fragment".

For consistency, it is suggested that claims 44-45 are amended to recite, "consisting of the sequence", see for example claim 1.

Correction of the above is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 1-2, 11-12, 17-18, 20-21, 34, 46, 48, 50-51 and 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 as amended is confusing for the recitation of "having a sequence consisting of" as "having" is open language and "consisting of" is closed language. It is suggested that the claim is amended to recite "consisting of the sequence", and the phrase "having a sequence" is deleted. The dependent claims hereto are also included in this rejection as they do not rectify the deficiency.

Claim 2 lacks antecedent basis as the claim depends from claim 1 which recites a fragment with closed language and claim 2 reads on a full-length sequence. It is also unclear whether the proteins recited in the claim have the activity as recited in claim 1. It is suggested that the claim is written in independent form with a functional limitation. Claim 17 lacks antecedent basis as the claim depends from claim 1 which recites closed language "consisting of", however, claim 17 recites "open" language "comprising" with a different motif.

Claim 18 lacks antecedent basis as the claim depends from claim 1 which recites closed language "consisting of", however, claim 18 recites "open" language "comprising"

Art Unit: 1653

with a different motif (see also claims 20 (a fragment which is truncated) and 21 (a homologue)).

6. Applicant's response filed November 30, 2004 has been considered. Based on the amendments to the claim 1, new grounds of rejections have been instituted for the reasons set forth above.

Conclusion

7. Claims 3, 19, 30-31, 43, 47, 49, 52 and 54 are free of the prior art.

8. Applicant's amendment necessitated the new/modified ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

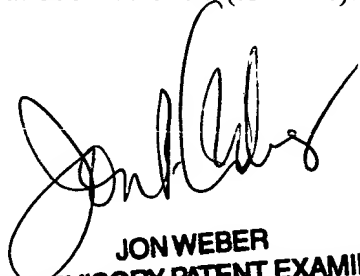
Art Unit: 1653


advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope A. Robinson whose telephone number is 571-272-0957. The examiner can normally be reached on Monday-Friday from 9:00 a.m. to 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon P. Weber, can be reached at (571) 272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JON WEBER
SUPERVISORY PATENT EXAMINER

Hope A. Robinson, MS 

Patent Examiner

2/17/05